

Land Use Covenant Implementation and Enforcement Plan

Former Chemtura Corporation Facility 3655 Collins Avenue Richmond, California 94806 EPA ID # CAD 009 137 779

1.0 Land Use Restrictions

The Department of Toxic Substances Control (DTSC) and Durkee Properties, LLC will enter into a Covenant to Restrict Use of Property (Land Use Covenant or LUC) to impose restrictions on the use of the property known as the former Chemtura Corporation / Crompton Corporation / Witco Corporation facility at 3655 Collins Avenue, Richmond, California 94806 (formally addressed at 850 Morton Avenue, Richmond, California) (hereafter, the "Site"). Site soils have been remediated by the former Site owner to meet residential standards. These land use restrictions are the institutional controls required to limit exposure to current and future landowners(s) and/or user(s) and/or occupants, and to maintain the effectiveness of the corrective action. These institutional controls are designed to limit exposure to any remaining hazardous waste constituents, such as the volatile organic compounds ("VOCs") contained in groundwater that are migrating onto the Site from an off-site source, and to protect human health and the environment.

DTSC will conduct annual inspections to ensure that the following land use restrictions are being complied with:

- **Prohibited Uses:**
 - A residence, including any mobile home or factory-built housing, constructed or installed for use as residential human habitation.
 - A hospital or hospice for humans.
 - Park and recreational use.
 - A public or private school for persons under 21 years of age.
 - A day care center for children.
- **Prohibited Activities:**
 - Raising of cattle, food crops, or agricultural products.
 - Drilling for water, oil, or gas.
 - Extraction of groundwater for purposes other than site remediation, groundwater monitoring, or construction dewatering.
 - Any activities that may interfere with the selected remedy or operation and maintenance activities required for the Site.

Restricted Uses and Improvements:

- The use of the Site shall be restricted to commercial, industrial, research and development, hotel, retail and office purposes only, any other use permitted by the Zoning Ordinance (Richmond Municipal Code section 15.04), and any other use permitted by any amendment to the aforementioned Zoning Ordinance, provided that the use is consistent with the prohibited uses and prohibited activities listed above.
- **Soil Management.** Activities that will disturb the soil at or below the level of shallow groundwater, such as excavation, grading, removal, trenching, filling, earth movement or mining, shall only be permitted on the Site pursuant to a Soil Management Plan and a Health and Safety Plan approved by DTSC. Any contaminated soils brought to the surface by any such activities shall be managed in accordance with all applicable laws and regulations.
- **Non-Interference with Groundwater Monitoring Wells and Remediation Wells on the Property at 3655 Collins Avenue, Richmond, CA.** Activities that may disturb the groundwater monitoring wells and remediation wells (e.g., excavation, grading or removal of soil; trenching; filling; earth movement; or mining) shall not be permitted on the property without prior review and approval by DTSC. All uses and development of the property shall preserve the integrity and physical accessibility of the groundwater monitoring wells and remediation wells.

2.0 Access, Transference, and Notice Provisions

- **Access to DTSC.** DTSC shall have reasonable right of entry and access to the Site for inspection and other activities consistent with the purposes of implementing and enforcing the LUC as deemed necessary by DTSC in order to protect public health and the environment.
- **Access for Implementing Operation and Maintenance.** The entity or person responsible for implementing the operation and maintenance of the corrective action remedy shall have reasonable right of entry and access to the property at 3655 Collins Avenue, Richmond, California, for the purpose of implementing the operation and maintenance requirements for the remedy until such time as DTSC determines that no further operation and maintenance is required.
- All owners or occupants of any portion of the property at 3655 Collins Avenue, Richmond, California, by their purchase, leasing, or possession of such property, are bound by the LUC and agree that the restrictions in the LUC must be adhered to for the benefit of future owners and occupants and that their interest in the property shall be subject to the restrictions contained in the LUC.
- The Owner of the property at 3655 Collins Avenue, Richmond, California, shall provide notice to DTSC no later than thirty (30) days after the conveyance of any ownership interest in the property at 3655 Collins Avenue, Richmond, California

(except for building space leases, mortgages, liens, and other non-possessory encumbrances).

3.0 Compliance with Land Use Restrictions

Durkee Properties, LLC or the future owner(s) shall submit an annual certification, prepared pursuant to California Code of Regulations, title 22, section 66270.11(d), to DTSC by July 31st of each year to certify that the land use and any activities at the site are in full compliance with the LUC requirements and restrictions. In addition, DTSC will have access to inspect the property at 3655 Collins Avenue, Richmond, California, annually to assess compliance with the LUC. Durkee Properties, LLC or the future owner(s) of the property at 3655 Collins Avenue, Richmond, California, shall reimburse DTSC for DTSC's costs incurred in implementing and enforcing the LUC. Any violations of the LUC shall be grounds for DTSC to take enforcement action in accordance with applicable law.